(28)

12/10/07

HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (S) No. 5817 of 2007

Petitioner Pramod Kumar Gupta, S/o. Late Shri Sushil Kumar Gupta, Aged about 41 years, R/o. Village Batuali, Tahsil Sitapur, Distt. Sarguja (CG).

Versus

Respondents

1 State of Chhattisgarh through the Secretary, Department of Tribal Welfare Department, D.K.S. Bhavan, Mzantralaya, Raipur (CG).

2 Upper Secretary, Department of Tribal Welfare Department, D.K.S. Bhavan, Mantralaya Raipur (CG).

3 Assistant Commissioner, Tribal Welfare, Ambikapur, Sarguja (CG).

4 Chief Executive Officer, Janpad Panchayat Batauli, District Sarguja (CG).

(Writ Petition under Article 226 of the Constitution of India.)

SB: Hon'ble Mr. Satish K. Agnihotri, J.

Present: Shri Sunil Tripathi, counsel for the petitioner.
Shri Arvind Dubey, Panel Lawyer for the State.

ORDER

(Passed on 11th October, 2007)

By this petition, the petitioner challenges the impugned order dated 7-7-2007 (Annexure P/1), whereby the petitioner has been transferred from the office of Block Education Officer, Batauli, District Sarguja, to the Government Higher Secondary School, Khadgawan, District Korea, as Assistant Grade II.

2) Learned counsel appearing for the petitioner submits that the impugned order is bad on two grounds. Firstly, the petitioner has been transferred last time on 31-8-2006 and this transfer has been made

within a period of one year that tantamounts to frequent transfers and secondly, transfer policy dated 13-6-2007 (Annexure P/4) has been violated as the policy provides for transfer of employees as minimum as possible, except in case of exigency.

3) Since the petitioner was transferred on 31-8-2006 and thereafter transfer was made on 7-7-2007, it cannot be held that this tantamounts to frequent transfer. Secondly, the policy is in the nature of guidelines, which provide for transfer of employees as minimum as possible keeping in view the exigency of service. The impugned order was passed transferring twenty officers in administrative exigency.

4) It is well settled principle of law that transfer is an incident of service and it is for the employer to decide asto where a particular officer/employee be posted, keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved mala fide, non-competence of authority passing the transfer order and transfer order not being conformity with the rules and regulations. This is not the case in this petition.

5) As a result and for the foregoing reasons mentioned hereinabove, this petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

raju